IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No 80 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

KANAIYALAL MANISHANKAR VYAS

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Appearance:

MR ASHISH M DAGLI for MR YOGESH S LAKHANI for Appellant

MR MD RANA for Respondent No. 1

MR GM JOSHI for Respondent No. 1

RULE SERVED for Respondent No. 2

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CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 01/02/2003

ORAL JUDGEMENT

1. This Second Appeal by the S.T. Corporation under Section 100 of the Code of Civil Procedure is directed against the judgment and decree dated 31st March, 1998 passed in Regular Civil Appeal No.49 of 1997 confirming the judgment and decree dated 9th April, 1997 passed by the Civil Judge (S.D.), Gondal in Regular Civil Suit No.380 of 1994.

2. At the time of admission, the following substantial questions of law were formulated:-

(1) Whether the question of limitation affected in deciding the suit preferred by the respondent no.1 as the judgment of Ref. Application was on 14-12-81 & the Reg. Civil Suit No.380/94 preferred on 23-12-94, hence the award is about 14 years before?

(2) Whether the question of res judicata arose as the matter is already decided by the Labour Court?

(3) Whether the Civil Court has jurisdiction to entertain & to decide the matter which falls under Industrial Disputes Act?

(4) Whether the Civil Court has jurisdiction to entertain a suit wherein prayer was made to declare Discipline & Appeal Procedure (Section 45) as ultra vires?

3. The learned counsel for the appellant submits that the Civil Court has no jurisdiction to entertain and decide the suit in view of the decision of Supreme Court in the case of Chandrakant Tukaram Nikam and others vs. Municipal Corporation of Ahmedabad and another reported in AIR 2002 SUPREME COURT 997. The learned counsel for the respondent does not dispute this position. The suit is, therefore, liable to be dismissed on the ground that the Civil Court had no jurisdiction to decide it. The question no.3 is, therefore, answered accordingly. Other questions, therefore, do not survive for decision. The appeal is allowed. The impugned judgments and decrees of the courts below are, therefore, set aside and the suit filed by the respondent plaintiff is ordered to be dismissed. The learned counsel for the respondent states that the respondent intends to make a representation to the Corporation. If and when such a representation is made, it will be for the Corporation to take such decision as it deems appropriate.

( M.C. Patel, J. )

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